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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,505	10/15/1999	BRUCE G. KANIA	3295-0027-0C	8984

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EXAMINER

PREBILIC, PAUL B

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/418,505

Applicant(s)

KANIA ET AL.

Examiner

Paul B. Prebilic

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 17, 23-25, 27, 30, 31 and 33-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 17 and 38-43 is/are allowed.
- 6) ☒ Claim(s) 23-25, 27, 30, 31, 33-37 and 44-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23, 45, 46, and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. With regard to the new language "non-perforated" or "non-porous", it is the Examiner's position that there is no original support for this structure. The Examiner reviewed pages 37 to 41 as well as other portions of the specification and did not find support for this language.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23, 45, 46, and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As an alternative to the above 35 USC 112, first paragraph rejection, if inherent or implicit support is present in the specification, the Examiner asserts that the claim language for "non-perforated" and "non-porous" lacks antecedent basis from the specification. For this reason, the claims are considered indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-25, 30, 31, 33-37, 44, 46, 48-51, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Lerman (US 4,635,626) where the adhesive layer and inner covering layer are non-perforated and are different components of the same coating. This coating layer is directly on the inside surface of the covering as claimed. The high wear fabric as claimed is met by the fabrics of Lerman because "high wear" is a term of relative degree. In other words, the polymer coating as claimed is met by the inner layer (34) and its adhesive together of Lerman and the outer of fabric layer as claimed is met by the protective outer layer (38) and its adhesive layer together of Lerman; see Figures 4 to 6 and columns 3 and 4. The inner layer qualifies as a coating in a broad sense.

With regard to claims 23 and 37, Tricot is a type of fiber-on-end to the extent that this language can be given patentable weight, and thus, the claim language is fully met.

With regard to claims 24 and 25, Lerman meets the mean plus function language for a docking means because of the pylon attachment to the covering as disclosed.

With regard to claim 25, the external device is not positively required by the claims and is only inferentially set forth. Since the casting tape of Lerman is capable of attaching a pad to the covering, the claim language is fully met in this regard.

Art Unit: 3738

With regard to claim 30, Tricot is a loop material that can adhere to hooks of fastening device, and thus, the claim language is fully met in this regard.

With regard to claim 35, the casting tape of Lerman is considered to be a type of strap as claimed.

Claims 23, 30, 31, 33, 37, 45-48, 50, 52, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Kania (US 5,603,122).

With regard to claims 30, 31, 33, 51, 52, and 53, the effective filing date of claim 51 is April 18, 2003 and for the remaining claims October 15, 1999 due to the new matter added to the claims. Therefore, Kania constitutes a statutory bar against the present claims.

Kania discloses a looped nylon (see column 4, line 38 and column 5, line 13) which constitutes a fabric as claimed. This fabric can adhere to hooks of hook and loop fastening systems because of the loops presented by this fabric.

The sock of Kania can be coated in the inside thereof with a polymeric material as required by the claim language; see column 5, line 19 to claim 6, line 24.

With regard to claims 23, 37, 44-48, and 50, the effective filing date of claims 23, 45, and 46 is April 18, 2003 and for the remaining claims October 15, 1999. The Examiner asserts that the looped nylon or Tricot nylon constitutes (see column 4, lines 65-67) a fiber-on-end fabric to the extent required by the present claim language. For this reason, the claim language is fully met.

Allowable Subject Matter

Claims 16, 17, 27, and 38-43 are allowed over the prior art of record.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection. In particular, the Lerman rejection as been repeated with some modification for some of the claims, but the explanation used therein answers Applicant's arguments thereagainst. For this reason, there was no need to repeat the rationale under this heading.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be

Art Unit: 3738

applicable under 35 USC 102 of 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Prebilic whose telephone number is (703) 308-2905. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for this Technology Center is (703) 872-9301.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 3700 receptionist whose telephone number is (703) 308-0858.



Paul Prebilic
Primary Examiner
Art Unit 3738